

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

MIDWEST AGGREGATES, a division of)
PAYNE & DOLAN, INC.,)
Plaintiff,) Case No. 1:08-cv-511
v.)
J & L CONCRETE, INC. and UNITED)
CONCRETE WAUKEGAN, INC.,)
Defendants.)

**AFFIDAVIT OF DAVID DIETZ IN SUPPORT OF
PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT
AGAINST UNITED CONCRETE WAUKEGAN, INC.**

I, David Dietz, make the following declaration in support of the Motion for Summary Judgment of Plaintiff, Midwest Aggregates.

1. I am a resident of the State of Wisconsin and am over the age of 21. I make this declaration of my own personal knowledge and could, as called as witness, testify competently to each fact stated.

2. I am currently the office manager of Midwest Aggregates. My duties as office manager include invoicing and collection.

3. Midwest Aggregates maintains invoices and other records of its accounts and transactions relating thereto, including the transactions referenced herein, as part of its regular business practice.

4. Midwest Aggregates' invoices are made by a person with knowledge of the relevant facts contained in such records, or made from information transmitted by a person with knowledge of the relevant facts contained in such records. Midwest Aggregates' invoices and

other business records are made at or near the time of the acts, events, or transactions that are the subject of such records.

5. I have access to and have reviewed all of Midwest Aggregates' invoices and other business records relating to the documents and underlying transactions in this matter.

6. A true and correct copy of the invoices relating to Defendant United Concrete Waukegan, Inc. and maintained in the ordinary course of business by Midwest Aggregates for the months of June 2007 through January 2008 is attached hereto as Group Exhibit A.

7. Between June 2007 and January 2008, Midwest Aggregates provided shipments of stone, pea gravel, and other aggregates to Defendant United Concrete Waukegan, Inc. in the amount of \$183,410.55.

8. Since the filing of Midwest Aggregates' Complaint, United Concrete Waukegan, Inc. has paid \$8,000 against their account. The last payment United Concrete Waukegan, Inc. made was on April 2, 2008.

9. As of April 24, 2008, United Concrete Waukegan, Inc. owes Midwest Aggregates \$175,410.55, plus interest, for shipments of stone, pea gravel, and other aggregates that Midwest Aggregates provided to it.

10. Under 28 U.S.C. § 1746, I declare under penalty of perjury that the above statements are true and correct.

Dated: April 24, 2008

By: 

David Dietz